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Trustee, First Magnus Liquidating Trust

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA**

In re:

FIRST MAGNUS FINANCIAL
CORPORATION,

Debtor.

Case No. 4:07-bk-01578-EWH

Chapter 11

**LIQUIDATING TRUSTEE'S
MOTION TO AUTHORIZE
DESTRUCTION OF DOCUMENTS
IN STORAGE**

Morris C. Aaron, Liquidating Trustee of the First Magnus Liquidating Trust (the "Liquidating Trustee" and "Liquidating Trust") hereby moves the Court for an Order in the form attached hereto as Exhibit "A" authorizing the Liquidating Trustee to destroy certain books and records related to First Magnus Financial Corporation's prepetition business activities. In further support of this motion, the Liquidating Trustee states as follows:

1. On August 21, 2007 (the "Petition Date"), First Magnus Financial Corporation (the "Debtor") filed a voluntary Chapter 11 bankruptcy petition with the Court initiating this case.

2. Prior to the Petition Date, the Debtor was one of the country's largest privately owned residential mortgage lenders with over 5,500 employees and 335 branches nationwide.

3. A few days before the bankruptcy filing, the Debtor abruptly ceased all business operations, closed hundreds of wholesale and retail branches virtually overnight,

1 and terminated all but approximately 157 employees.

2 4. As the branches were closed, the remaining employees boxed up all paper
3 files and either put them in storage locally or shipped them to Tucson.

4 5. On February 29, 2008, the Court entered the *Order Confirming Second*
5 *Amended Plan of Liquidation Dated January 4, 2008 filed by First Magnus Financial*
6 *Corporation* (the “Confirmation Order”) confirming the *Second Amended Plan of*
7 *Liquidation Dated January 4, 2008 filed by First Magnus Financial Corporation* (the
8 “Plan”). [Admin. Dkt. No. 1589].

9 6. The Effective Date of the Plan occurred on May 1, 2008. [Admin. Dkt. No.
10 2438]. The Liquidating Trust was established and the Liquidating Trustee was appointed
11 on the Effective Date pursuant to the terms of the Confirmation Order and the Plan. *See*
12 *Plan*, §§ 7.1 – 7.14.3.

13 7. As of the Effective Date, all Remaining Assets of the Debtor, with the
14 exception of Estate Tort and Other Claims, were transferred to the Liquidating Trust.¹
15 The Remaining Assets included over 17,000 bankers boxes of paper files stored at Iron
16 Mountain in Tucson in addition to storage units in Hawaii and California (the
17 “Documents”).

18 8. The paper files include unfunded and funded loan files, employment and
19 personnel records, accounting records, tax records, customer service files, payroll records,
20 human resources files, compliance, quality control and licensing files, and various other
21 miscellaneous paper files from the branch offices. Many of the documents contain
22 personal information of former employees and borrowers, such as social security
23 numbers, driver’s license information, and banking information, and therefore should be
24 disposed of properly.

25
26 ¹ Estate Tort and Other Claims generally were defined as causes of action against Insiders and
Warehouse Lenders, which were transferred to the Litigation Trust as of the Effective Date.

9. In addition to the paper files, FMFC maintained a state of the art computer network in the basement of FMFC's headquarters in Tucson, Arizona. All of FMFC's loan files and virtually all other business records were maintained electronically in addition to any paper files that were kept. The Liquidating Trustee is not requesting authority to dispose of the electronic records at this time.

10. The Liquidating Trustee is in the process of concluding the administration of Liquidating Trust, preparing a final distribution to unsecured creditors, and closing the case. The Litigation Trust has completed its work and has no additional funds to transfer to the Liquidating Trust.

11. The Documents are not necessary for the Liquidating Trustee to perform his remaining duties and continued storage of the documents costs the Liquidating Trust \$12,000 per month. Therefore, the Liquidating Trustee requests entry of an order authorizing him to destroy the Documents.

WHEREFORE, Based on the Motion, and all of the foregoing, the Liquidating Trustee respectfully requests that the Court enter an Order in the form attached hereto as Exhibit "A" authorizing the immediate destruction of the Documents.

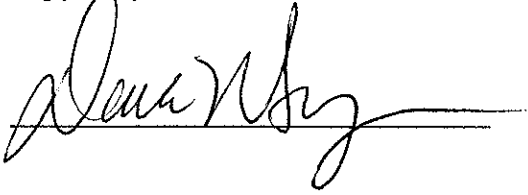
RESPECTFULLY SUBMITTED this 19th day of June, 2013.

GALLAGHER & KENNEDY, P.A.

By: /s/Todd A. Burgess (AZ Bar No. 019013)

Todd A. Burgess
Attorneys for Liquidating Trustee

1 ORIGINAL filed and COPY of the
2 foregoing served by U.S. Mail on all
3 parties on the official service list
4 attached as Exhibit "B" to the Court's
5 copy only.

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